IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2851 OF 2005

Tariq Abdul Karim Parveen. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Shri Shirish Gupte with Shri Girish Kulkarni i/by Shri Kapil Dave for the Applicant.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 11th July, 2005.

P.C.:

1. On the last date the learned Counsel appearing for the parties were heard.

2. This is an Application for bail to which provisions of section 21 of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as "MCOC Act") are applicable. Sub-section (4) of section 21 of the MCOC Act lays down that when an Application for bail is opposed by the Public Prosecutor, the bail cannot be granted unless the Court is satisfied that there are reasonable grounds to believe that the Applicant is not guilty of such an offence and that he is not likely to commit any offence while on bail. In the context of the power of the Court to grant bail, the merits of this case will have to be examined.

3. Initially offence was registered under sections 384, 387, 392, 34 and 120(B) of the Indian Penal Code. The

allegation in the F.I.R. is that the Accused persons hatched a criminal conspiracy to threaten the complainant lady to vacate her residence and forcibly robbed her of ration card, photo pass etc. A threat was given to her by informing her that the property belongs to Chhota Shakeel and Dawood. Subsequently, the provisions of MCOC Act were applied.

4. The learned Counsel appearing for the Applicant submitted that no case is made out for invoking any of the provisions of the MCOC Act against the Applicant. He referred to the confessional statement of the Applicant and contended that the said statement is exculpatory in nature and the said statement merely gives information and history. He submitted that apart from the said confessional statement, there is no other material on record against the Applicant. He, therefore, submitted that the applicant deserves to be enlarged on bail. Shri Gadkari, the learned A.P.P. appearing for the State submitted that there are statements of several witnesses who have implicated the Applicant. He submitted that the definition of the word "abet" in the provisions of the MCOC Act is wide enough to bring the case of the Applicant within the ambit of the MCOC Act.

5. At this stage, it will be necessary to refer to the definition of the word "abet" in the said MCOC Act,

which reads thus:

> (a) "abet", with its grammatical variations and cognate expressions, include, --
>
> (i) the communication or association with any person with the actual knowledge or having reason to believe that such person is engaged in assisting in any manner, an organised crime syndicate;
>
> (ii) the passing on or publication of, without any lawful authority, any information likely to assist the organised crime syndicate and the passing on or publication of or distribution of any document or matter obtained from the organised crime syndicate; and
>
> (iii)the rendering of any assistance, whether financial or otherwise, to the organised crime syndicate."

The said definition is very wide. The word "abet" includes communication and association with any person with the actual knowledge or having reason to believe that such person is engaged in assisting in any manner,

an organised crime syndicate.

6. Reference will have to be made to the statement of one A.S.Lakadwala. He stated that he and his hrother are running a petrol pump. In March 2001 one Abdul Samad Khan came to the said A.S.Ladakawala with a proposal to sell his garage in Moonim Compound, Mumbai, for a sum of Rs.65 lakhs. After negotiations deal was settled at Rs.45 lakhs and he gave a sum of Rs.10 lakhs to the said Abdul Samad Khan as token amount. The witness stated that the said Abdul Samad Khan informed him that one Rehman Bos and one Sattar Teli, co-accused were threatening him to sell the garage to them. According to the said witness he met Sattar Teli who told that he was a partner of Rehman Boss and the entire project belong to Iqbal Bhai and Chhota Shakeel and the company is floated on behalf of Dawood Bhai. According to the said witness, he received a call from the Applicant who was known to him and the Applicant informed him that Chhota Shakeel was a partner in the project of Abdul Rehman alias Rehman Boss and Sattar Teli and the Applicant herein abused and threatened him to withdraw from the project or else he would send boys to eliminate him. He has stated that the Applicant made threatening calls to him on four to five occasions and called upon him to take back the token money from Abdul Samad Khan. My attention is also invited to the statement of one Yusuf Abdulla Shaikh who has also

described the role played by the Applicant. The learned A.P.P. has pressed into service statement of Abdul Samad Khan who is stated to be the close relative of the Applicant. According to him, at his instance the Applicant intervened as he was receiving threats from co-accused Rehman. According to him, at the instance of the Applicant the deal of the property was settled for Rs.33 lakhs and a sum of Rs.33 lakhs was collected by Abdul Samad Khan from the office of Rehman. Lastly, reliance is also placed on the statement of Mohamood Tajuddin Choudhari whose statement also refers to the threats given by the Applicant to A.S.Lakadwala on telephone from Dubai to cancel the deal of garage of Abdul Samad Khan.

7. If these statements are considered in conjunction with the confessional statement, it is obvious that the Applicant is involved in the offence. In view of the material on record, this will not be a case where satisfaction can be recorded that there are reasonable grounds to believe that the Applicant is not guilty of the offence alleged against him andr that he will not commit any offence while on bail. Hence, there is no merit in the Application and the same is rejected.

Judge.